

WSR 23-04-062
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed January 27, 2023, 3:39 p.m.]

Subject of Possible Rule Making: Chapter 246-490 WAC, Vital statistics and chapter 246-491 WAC, Vital statistics—Certificates. The department of health (department) is considering amending and repealing existing rules and creating new rules related to vital records. The rules may establish registration and amendment requirements for vital records; update or add program processes to align with statutory changes; adopt fees associated with amendment and delayed birth applications; add or adjust fees associated with the issuance of certifications and informational copies; add or remove data items collected in a vital record; expand use of electronic registration of a vital event; make editorial and technical changes to align with statutory changes; and repeal obsolete sections of rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.58A.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Three significant statutory changes to vital records caused a need for rule making. First, passage of ESSB 6037 (chapter 6, Laws of 2018), Uniform Parentage Act (UPA), expanded surrogacy rights and duties, included surrogacy in the birth registration process, and recognized the diversity of families and nonbiological parent-child relationships. UPA updates also included broader definitions of the term "parent" and "parentage" to recognize and protect the diversity of families and nonbiological parent-child relationships.

Second, in 2019, the legislature repealed chapter 70.58 RCW and replaced it with chapter 70.58A RCW, Vital statistics, to modernize vital record processes. Chapter 70.58A RCW includes the following new or clarified elements:

- Limits access to certified copies of birth and death records to qualified applicants.
- Gives the department authority to amend vital records and transfer custody of records to state archives.
- Updates references and definitions that reflect the 2018 changes to the UPA.
- Creates a right to appeal some decisions made by the state registrar.

Third, the legislature added a certification of birth resulting in stillbirth through HB 1031 (chapter 55, Laws of 2021) (RCW 70.58A.530). The department created a new certificate that provides families a way to honor stillbirth. The new certificate uses data from the fetal death record and took effect on October 1, 2022.

In addition to statutory changes, the National Center for Health Statistics (NCHS) standards for birth and fetal death record items changed significantly in 2014. The department may also want to align the statistical items collected through vital records with the new NCHS standards. Continual realignment with national standards supports interoperability and the collection of useful data as these standards change over time.

The department's goal is to realign rule with statute and national standards. Changes considered during this rule making will ensure that rule language reflects new and updated program requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The state board of health (board) has rule-making authority over WAC 246-491-029. On November 9, 2022, the board delegated authority to the department. The department will work closely with the board to make sure that any proposed changes maintain the integrity of the rule.

Process for Developing New Rule: The department will use a collaborative rule-making process to develop the proposed rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kelly Thomson, P.O. Box 47814, Olympia, WA 98504-7814, phone 360-236-2274, TTY 360-833-6388 or 711, email kelly.thomson@doh.wa.gov, website <http://www.doh.wa.gov/AboutUs/RuleMaking>.

Additional comments: Interested parties can participate in the drafting of the proposed rule. The department will use existing listserv and other known contact information to inform stakeholders of opportunities to provide input on proposed rule language. To be included on an interested parties list, contact Kelly Thomson.

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